IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2376 OF 2006.

Vilas Sitaram Shinde ..Petitioner

versus

State of Maharashtra ..Respondent.

Mr. Hemanshu Kode,Advocate for the Petitioner-detenue

Mr.I.S.Thakur APP for the State.

Coram : S.B.Mhase &
S.R.Sathe, JJ.
Dated : 29th November, 2006

P.C.

1. Rule, returnable forthwith.

2. The petitioner has submitted an application through jail for getting furlough. The petitioner was convicted for offence under Section 302 of I.P.C. and since last four years he is in jail undergoing conviction. He has not availed facility of furlough since he is in jail for the last four years, and therefore he is entitled to get furlough for 15 days. However, his furlough application has been rejected by the authority because the report of the police officer states that the witnesses are residing in the vicinity where the petitioner will be staying after getting furlough and therefore they apprehend danger to the life of the witnesses and

complainant and therefore the furlough may not be granted. Taking into consideration this report the Competent Authority has not granted the furlough.

2. We heard the learned Counsel for the Petitioner and also the APP for the State. What we find is that in every criminal case this ground will be raised and thereby the valuable statutory right of furlough cannot be availed by the accused persons. The apprehension is expected to be on well founded circumstances. However, in the present matter we find that there is a simple report. If the witnesses are asked, the witnesses are bound to say that there is danger to their life. We cannot forget that in all such matters the complainant and the witneses may have a strong objection to the release of the accused and therefore may say that they apprehend danger and therefore the authority has to analyse the report. That analysis has not been carried out by the appropriate authority and simply relied upon the statement of the witnesses, and therefore the objection has been taken by the police. We find that the objection is not tenable in law. The valuable right of the detenue to have association of the other members of his family cannot be denied by this method and therefore we

quash and set aside the order passed by the competent authority dated 17.3.2006 and direct that the petitioner be released on furlough for a period of 14 days on execution of bond of Rs.10,000/- (Rupees Ten Thousand Only). During the period of furlough he has to report to the Ambernath Police Station once in a day i.e. at 7 O'Clock in the evening. He shall not go out of the local jurisdiction of the Ambernath Police Station unless informed to the Police Station Officer. During the furlough period the detenue petitioner shall not meet or try to meet the witnesses or the complainant. The authorities may impose the other usual conditions.

. Rule made absolute in the above terms.

. Office is directed to issue appropriate writ to the jail authorities.

(S.R.Sathe, J.) **(S.B.Mhase, J.)**